

# Exhibit 44

1  
2 UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
3 CIVIL ACTION NO. 2:16-CV-06576

-----X  
4 INDUSTRIA DE ALIMENTOS ZENU S.A.S.,  
5 Plaintiff,

6 - against -

7 LATINFOOD U.S. CORP. D/b/a ZENU PRODUCTS  
8 CO. And WILSON ZULUAGA,  
9 Defendants/Counter-Plaintiff

-----X  
10 LATINFOOD U.S. CORP. D/b/a ZENU PRODUCTS  
11 CO.,  
12 Defendant/Counter-Plaintiff

14 and

15 INDUSTRIA DE ALIMENTOS ZENU S.A.S  
16 and CORDIALSA USA, INC.  
17 Counter-Defendants.

-----X  
18  
19 DEPOSITION OF SANTIAGO JIMENEZ  
20 NEW YORK, NEW YORK  
21 TUESDAY, JANUARY 14, 2020  
22

23 REPORTED BY:

24 DANIELLE GRANT

25 JOB NO.: 3810574

<p style="text-align: right;">Page 30</p> <p>1 S. JIMINEZ</p> <p>2 where food products are displayed?</p> <p>3 MR. RAYMOND: In the United</p> <p>4 States?</p> <p>5 Q In the United States.</p> <p>6 A No, I have not been to those.</p> <p>7 Q Have you ever had any speaking</p> <p>8 engagements at any U.S. trade shows?</p> <p>9 A Have I spoken to anyone?</p> <p>10 Q No. Where you were a speaker at</p> <p>11 a trade show?</p> <p>12 A No, no. I have never been a</p> <p>13 speaker, no.</p> <p>14 Q Did you ever see -- when you</p> <p>15 attended a trade show in the U.S., did you ever</p> <p>16 see any Zenu or Ranchera branded products by any</p> <p>17 chance?</p> <p>18 A No, not in the United States, no.</p> <p>19 Q What is -- what is Industria's</p> <p>20 relationship with Nutresa?</p> <p>21 A Nutresa is the holding company,</p> <p>22 and Industria's -- the meat business reports to</p> <p>23 Nutresa. I'm sorry. So Industria's meat</p> <p>24 business reports to Nutresa.</p> <p>25 Q Do you consider Nutresa your</p>	<p style="text-align: right;">Page 32</p> <p>1 S. JIMINEZ</p> <p>2 Do you understand that?</p> <p>3 A Yes, I understand.</p> <p>4 Q In your opinion, is this</p> <p>5 allegation accurate?</p> <p>6 A I don't think it's appropriate</p> <p>7 for me to give my opinion.</p> <p>8 Q Well, I need you to answer the</p> <p>9 question. If your attorney -- you need to</p> <p>10 answer the questions. If your attorneys advise</p> <p>11 you not to answer, then, of course, don't</p> <p>12 answer. But otherwise you're here to answer</p> <p>13 questions.</p> <p>14 MR. RAYMOND: You can answer the</p> <p>15 question if you can, if you know.</p> <p>16 A What's the question again?</p> <p>17 MR. RAYMOND: He's asking if this</p> <p>18 is accurate.</p> <p>19 Q To your knowledge?</p> <p>20 A Yes.</p> <p>21 Q Now, this -- this allegation says</p> <p>22 that plaintiff has advertised and promoted food</p> <p>23 products under the Zenu mark at trade shows</p> <p>24 around the world, including in the U.S.</p> <p>25 Do you know that to be true?</p>
<p style="text-align: right;">Page 31</p> <p>1 S. JIMINEZ</p> <p>2 employer?</p> <p>3 A No. Industria De Alimentos Zenu</p> <p>4 is my employer.</p> <p>5 Q And do you know who -- do you</p> <p>6 know what company Cordialsa is?</p> <p>7 MR. RAYMOND: Object to the form.</p> <p>8 A Yes, I do.</p> <p>9 Q And what is that company?</p> <p>10 A It is a lot of joint businesses</p> <p>11 that work together, which they do distribution</p> <p>12 where they distribute their products in</p> <p>13 different countries.</p> <p>14 Q Does Industria have business</p> <p>15 relations with Cordialsa, to your knowledge?</p> <p>16 A Not that I know of.</p> <p>17 Q Now, I believe -- I'd like you to</p> <p>18 look at Exhibit C, LS-B, excuse me.</p> <p>19 Now, I believe you've said</p> <p>20 you've seen this document before.</p> <p>21 A Yes, that's correct.</p> <p>22 Q Now, if you look at Page 8,</p> <p>23 Paragraph 28, if you could read that. Now, this</p> <p>24 is an allegation made by Industria in this</p> <p>25 lawsuit.</p>	<p style="text-align: right;">Page 33</p> <p>1 S. JIMINEZ</p> <p>2 A I can't really say. Like I don't</p> <p>3 know, I'm not certain. I can't say that they've</p> <p>4 done advertising. I don't know, are you talking</p> <p>5 about advertising?</p> <p>6 Q Advertising and promoting food</p> <p>7 production under the Zenu mark at trade shows,</p> <p>8 including in the United States.</p> <p>9 A Not that I am certain of. I'm</p> <p>10 not certain of any advertising that has been</p> <p>11 done.</p> <p>12 Q Who would know the answer to this</p> <p>13 question, if not you?</p> <p>14 A Luis Ignacius Salazar.</p> <p>15 Q Do you know if Industria ever</p> <p>16 promoted its Zenu Ranchera products in the U.S.</p> <p>17 at trade shows?</p> <p>18 A No, I don't know.</p> <p>19 Q Do you know if Industria appeared</p> <p>20 at the Miami Food and Beverage Show in 2011, by</p> <p>21 any chance?</p> <p>22 A Yes, I know.</p> <p>23 Q Do you know -- so in connection</p> <p>24 with this Miami Food and Beverage Show in 2011,</p> <p>25 do you know if any leads, marketing leads, were</p>

9 (Pages 30 - 33)

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1 S. JIMINEZ  
2 generated from this show that led to any  
3 business for Industria?  
4 A 2001?  
5 Q 2011.  
6 A Can you repeat the question  
7 again, please?  
8 MR. INGBER: Can you read it  
9 back, Madam Court Reporter?  
10 (The requested portion of the record was  
11 read back.)  
12 A No.  
13 Q Does that mean -- when you say,  
14 "No," does that mean that there were no leads  
15 generated, or, no, you're not sure?  
16 A I don't know.  
17 Q Who would know?  
18 A The people that attended  
19 directly.  
20 Q Do you know if Luis Salazar would  
21 know?  
22 A No.  
23 Q He wouldn't know or you're not  
24 sure?  
25 A I don't know if he knows.

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1 S. JIMINEZ  
2 MR. INGBER: What is the next  
3 exhibit?  
4 Q This document was previously  
5 marked as LS-D from the Salazar deposition.  
6 Have you ever seen this  
7 document before?  
8 A Yes.  
9 Q Now, this is a registration for  
10 the 16th America's Food and Beverage Show and  
11 Conference from September 24 to 25, 2012 in  
12 Miami Beach.  
13 MR. RAYMOND: There's no  
14 question.  
15 Q Now, on the first page, it says:  
16 Registration information, and it lists Juliana  
17 Gomez.  
18 Do you know who that is?  
19 A Yes, I do know.  
20 Q Who is she?  
21 A She works at Industria as a  
22 marketing director.  
23 Q Is she still there?  
24 A Yes, she is.  
25 Q Do you know if she attended this

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1 S. JIMINEZ  
2 show?  
3 A Yes, I know.  
4 Q Did she tell you that she  
5 attended?  
6 A She did not, but some of the team  
7 members that traveled with her reported to me.  
8 Q Do you know who they were?  
9 A There's one team member there  
10 that reported to me, and his name is Carlos  
11 Espinosa.  
12 MR. INGBER: I need to take a  
13 short break.  
14 (Whereupon, at 11:43 p.m., a recess was  
15 taken to 12:04 p.m.)  
16 (The deposition resumed with all parties  
17 present.)  
18 BY MR. INGBER:  
19 Q Mr. Jimenez, what type of company  
20 is Industria?  
21 A Industria is a company that  
22 produces and distributes food products.  
23 Q Do you know how long they've been  
24 doing this?  
25 A Over 60 years.

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1 S. JIMINEZ  
2 Q How many people do they employ?  
3 A Directly, approximately 4,000  
4 people.  
5 Q Do they have any U.S. employees?  
6 A Not that I know of.  
7 Q And where are their products  
8 sold?  
9 A Mainly in Columbia.  
10 MR. RAYMOND: So to clarify,  
11 you're asking about all their  
12 products, or are you just talking  
13 about Zenu and Ranchera?  
14 MR. INGBER: All their products.  
15 Q Who are the current officers and  
16 directors of Industria?  
17 MR. RAYMOND: If you know.  
18 A The president is Diego Medina.  
19 The marketing -- the director of marketing and  
20 trade is Luis Ignacius Salazar. Strategic  
21 planning and finance is Matteo Mertaqu (ph).  
22 Maria del Carman is the director of human  
23 resources. And I'm the director of the supply  
24 chain.  
25 Q Are you the number two person

10 (Pages 34 - 37)



<p style="text-align: right;">Page 38</p> <p>1 S. JIMINEZ</p> <p>2 behind Diego Medina as Industria?</p> <p>3 A I wouldn't say so. We work as a</p> <p>4 team, and we work under Diego Medina, but I</p> <p>5 wouldn't say I'm the second person.</p> <p>6 Q Do you know how long Industria</p> <p>7 has been selling Ranchera and Zenu marks?</p> <p>8 MR. RAYMOND: Object to the form.</p> <p>9 You mean products using those marks?</p> <p>10 MR. INGBER: Yes.</p> <p>11 A Yes, I do know. With Zenu, it's</p> <p>12 been over 60 years, and over 30 years for</p> <p>13 Ranchera.</p> <p>14 Q Do you know about the history of</p> <p>15 how these two branded marks were created?</p> <p>16 A No.</p> <p>17 Q When did you become aware of this</p> <p>18 lawsuit?</p> <p>19 A I don't know an exact date.</p> <p>20 Q Was it in 2016?</p> <p>21 A I don't have an exact date.</p> <p>22 Q Was it more than two years ago?</p> <p>23 A I'm not -- I don't have the</p> <p>24 ability to respond to that question.</p> <p>25 Q Is it five years?</p>	<p style="text-align: right;">Page 40</p> <p>1 S. JIMINEZ</p> <p>2 MR. RAYMOND: I'm going to object</p> <p>3 to the form of question to the extent</p> <p>4 that you need to disclose any</p> <p>5 communications you've had with lawyers</p> <p>6 at the company, to answer it. If you</p> <p>7 can answer it without disclosing that,</p> <p>8 you can answer.</p> <p>9 A Can you repeat the question?</p> <p>10 MR. INGBER: Yes, can you repeat</p> <p>11 the question, please.</p> <p>12 (The requested portion of the</p> <p>13 record was retranslated by the</p> <p>14 interpreter.)</p> <p>15 MR. RAYMOND: I'm sorry. Can you</p> <p>16 read it back in English also?</p> <p>17 (The requested portion of the record was</p> <p>18 read back.)</p> <p>19 A I suppose so.</p> <p>20 Q Do you have an IT manager at</p> <p>21 Industria?</p> <p>22 A Industria does not. Nutresa</p> <p>23 provides the services, and they have an IT</p> <p>24 department.</p> <p>25 Q So are you saying that Nutresa --</p>
<p style="text-align: right;">Page 39</p> <p>1 S. JIMINEZ</p> <p>2 MR. RAYMOND: Is what five years?</p> <p>3 MR. INGBER: That he became aware</p> <p>4 of this lawsuit?</p> <p>5 MR. RAYMOND: I object to the</p> <p>6 form.</p> <p>7 A I don't know the exact date. I</p> <p>8 can't give you a time frame.</p> <p>9 Q Well, this lawsuit was commenced,</p> <p>10 I'll tell you, in 2016, by Industria in New</p> <p>11 Jersey.</p> <p>12 Do you know if a -- have you</p> <p>13 ever heard of the term "litigation hold"?</p> <p>14 A No, never.</p> <p>15 Q Do you know if Industria has</p> <p>16 preserved the documents for this litigation?</p> <p>17 A I suppose so.</p> <p>18 Q But you don't know for sure?</p> <p>19 A No.</p> <p>20 Q Who would know this?</p> <p>21 A The company's legal team.</p> <p>22 Q Does the company's legal team</p> <p>23 know everything about the preservation of</p> <p>24 documents in this case, to the best of your</p> <p>25 knowledge?</p>	<p style="text-align: right;">Page 41</p> <p>1 S. JIMINEZ</p> <p>2 is it true, then, that Nutresa is involved in</p> <p>3 the preservation of documents for this</p> <p>4 litigation?</p> <p>5 MR. RAYMOND: Object to the form</p> <p>6 of the question.</p> <p>7 A Yes, that's correct.</p> <p>8 Q Do you know the name of this --</p> <p>9 is there a single person at Nutresa that's</p> <p>10 responsible for preservation of documents in</p> <p>11 this case that you know of?</p> <p>12 A I don't know of a single person.</p> <p>13 It's a team.</p> <p>14 Q Do you know of any particular</p> <p>15 person?</p> <p>16 A No.</p> <p>17 Q Were you consulted or involved in</p> <p>18 providing information regarding the allegations</p> <p>19 in this complaint?</p> <p>20 A No, never.</p> <p>21 Q Are you aware of a company called</p> <p>22 Marquillas SA?</p> <p>23 A Not until yesterday.</p> <p>24 Q What do you know about</p> <p>25 Marquillas?</p>

<p style="text-align: right;">Page 98</p> <p>1 S. JIMINEZ</p> <p>2 result of anything done by LatinFood to your</p> <p>3 knowledge?</p> <p>4 A To my knowledge, it's no impact</p> <p>5 in Colombia.</p> <p>6 Q And how about in the U.S.?</p> <p>7 A As far as I know, because we have</p> <p>8 not been able to get our product in the United</p> <p>9 States, we have not capitalized on the</p> <p>10 opportunity of selling in the United States.</p> <p>11 Q Are you aware if there have been</p> <p>12 any issues with U.S. Customs which have</p> <p>13 prevented Industria from bringing their goods</p> <p>14 into the U.S.?</p> <p>15 MR. RAYMOND: You've asked that</p> <p>16 question, and he answered.</p> <p>17 A As I answered previously, no.</p> <p>18 Q No, you're not aware, or, no,</p> <p>19 there -- does that mean, no, you're not aware of</p> <p>20 any?</p> <p>21 A No, there haven't been any.</p> <p>22 Q Do you have any information that</p> <p>23 suggests that Industria suffered injury to its</p> <p>24 reputation in the -- in any market as a result</p> <p>25 of anything done by LatinFood?</p>	<p style="text-align: right;">Page 100</p> <p>1 S. JIMINEZ</p> <p>2 in the U.S.?</p> <p>3 A Not that I know of.</p> <p>4 Q Has Industria been damaged by</p> <p>5 LatinFood's use of its Zenu and Ranchera marks</p> <p>6 in the U.S.?</p> <p>7 MR. RAYMOND: Object to the form.</p> <p>8 You're asking a legal conclusion, but</p> <p>9 he can answer.</p> <p>10 A It's my understanding that we</p> <p>11 have not been able to enter the U.S. market, and</p> <p>12 that's damaging to us.</p> <p>13 Q How long has -- I think you say</p> <p>14 Industria has been around for 60 years?</p> <p>15 A More than 60 years, yes.</p> <p>16 Q Have they been prevented for 60</p> <p>17 full years, or just the last few years, from</p> <p>18 entering into the market, according to you?</p> <p>19 A To my knowledge, it was the -- in</p> <p>20 the last few years. We have insisted more, ever</p> <p>21 since the free trade agreement between Colombia</p> <p>22 and the U.S. was signed, but even before that we</p> <p>23 had tried.</p> <p>24 Q Is there anything that prevents</p> <p>25 Industria from exporting meat products into the</p>
<p style="text-align: right;">Page 99</p> <p>1 S. JIMINEZ</p> <p>2 A Yes, the complaint from Gloria</p> <p>3 Moreno.</p> <p>4 Q Anything besides that?</p> <p>5 A Yes, I know of a posting on</p> <p>6 Facebook.</p> <p>7 Q By whom?</p> <p>8 A I can't remember the name right</p> <p>9 now.</p> <p>10 Q What year was it?</p> <p>11 A I don't remember the date.</p> <p>12 Q What did the Facebook posting</p> <p>13 say?</p> <p>14 A That there was a confusion with</p> <p>15 the products being offered in the U.S. market,</p> <p>16 and this person wanted to know if these products</p> <p>17 were actually original Colombian products.</p> <p>18 Q Did you contact this person?</p> <p>19 A No.</p> <p>20 Q When did you learn about this</p> <p>21 person?</p> <p>22 A Through the documents that the</p> <p>23 attorneys shared.</p> <p>24 Q Has Industria ever sold any Zenu</p> <p>25 branded -- has Industria ever sold any products</p>	<p style="text-align: right;">Page 101</p> <p>1 S. JIMINEZ</p> <p>2 U.S., to your knowledge?</p> <p>3 A At this time, there isn't really</p> <p>4 a restriction to enter the market, but we are</p> <p>5 limited because of a health issue between</p> <p>6 Colombia and the U.S., and it's called food and</p> <p>7 mouth disease.</p> <p>8 Q Have you ever heard of the term</p> <p>9 "mad cow disease"?</p> <p>10 A Yes, I've heard of it.</p> <p>11 Q So Columbian companies can't</p> <p>12 export meat products into the U.S.; is that</p> <p>13 correct?</p> <p>14 A There is a confusion, and I just</p> <p>15 want to clear it up. You mentioned "mad cow,"</p> <p>16 and this has nothing to do with that.</p> <p>17 Q So hoof and mouth disease?</p> <p>18 A There's a restriction because of</p> <p>19 that. But since we can work with providers in</p> <p>20 the United States, that restriction is no longer</p> <p>21 a limitation.</p> <p>22 Q How long was it a limitation?</p> <p>23 A It's a limitation established.</p> <p>24 It's a health protocol, and it doesn't have an</p> <p>25 expiration date.</p>

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<p style="text-align: right;">Page 102</p> <p>1 S. JIMINEZ</p> <p>2 Q Do you know how long this</p> <p>3 restriction has been in effect, how many years?</p> <p>4 A I don't have the information as</p> <p>5 to the years.</p> <p>6 Q Do you know if it's been more</p> <p>7 than ten years?</p> <p>8 A Yes.</p> <p>9 Q Do you know if it's been more</p> <p>10 than 20 years?</p> <p>11 A Yes.</p> <p>12 MR. INGBER: Can we take a break,</p> <p>13 ten-minute break?</p> <p>14 (Whereupon, at 3:35 p.m., a recess was</p> <p>15 taken to 3:58 p.m.)</p> <p>16 (The deposition resumed with all parties</p> <p>17 present.)</p> <p>18 Q Just a couple of more questions.</p> <p>19 Do you know the time period</p> <p>20 that Miquel Moreno worked at Fehr Foods, what</p> <p>21 years?</p> <p>22 A I don't know.</p> <p>23 Q Do you know what company he was</p> <p>24 working for at the time of this October 19,</p> <p>25 2013, email with Mr. Medina?</p>	<p style="text-align: right;">Page 104</p> <p>1 S. JIMINEZ</p> <p>2 MR. INGBER: No further</p> <p>3 questions.</p> <p>4 MR. RAYMOND: I have no</p> <p>5 questions. Thank you.</p> <p>6</p> <p>7 (Time noted: 4:01 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 SANTIAGO JIMENEZ</p> <p>14</p> <p>15</p> <p>16 Subscribed and sworn to before me</p> <p>17 this _____ day of _____ 2020.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>NOTARY PUBLIC</p>
<p style="text-align: right;">Page 103</p> <p>1 S. JIMINEZ</p> <p>2 A Yes. At that time he worked for</p> <p>3 Fehr Foods.</p> <p>4 Q Do you know that Industria said</p> <p>5 that -- do you know if Industria stated that</p> <p>6 Miquel Moreno was an employee of Industria at</p> <p>7 the time he communicated with Marquillas in</p> <p>8 October of 2013?</p> <p>9 A I did not know.</p> <p>10 Q And I believe in connection with</p> <p>11 these exhibits, No. 6 -- no, not No. 6.</p> <p>12 In connection with Exhibit F, I</p> <p>13 believe you testified that you don't have any</p> <p>14 personal knowledge about any of the meetings</p> <p>15 or any of the events that took place there; is</p> <p>16 that true?</p> <p>17 MR. RAYMOND: I object to the</p> <p>18 form. It's just an objection to the</p> <p>19 form. He testified about knowledge</p> <p>20 from the emails themselves. He</p> <p>21 answered.</p> <p>22 A Yes.</p> <p>23 (Continued on following page to</p> <p>24 accommodate jurat.)</p> <p>25</p>	<p style="text-align: right;">Page 105</p> <p>1</p> <p>2 -----INDEX-----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 SANTIAGO JIMENEZ MR. INGBER 5</p> <p>5</p> <p>6 -----EXHIBITS-----</p> <p>7 FOR IDENTIFICATION DESCRIPTION PAGE</p> <p>8 Exhibit A 30(b)(6) Notice for 11</p> <p>9 Santiago Jiminez</p> <p>10 Exhibit B 30(b)(6) Notice for 15</p> <p>11 Santiago Jiminez</p> <p>12 Exhibit C Defendants' Fourth Answer 17</p> <p>13 to Plaintiff's Amended</p> <p>14 Complaint and</p> <p>15 Counterclaims</p> <p>16 Exhibit D Email, dated October 19, 44</p> <p>17 2013</p> <p>18 Exhibit E Email, dated January 14, 45</p> <p>19 2020</p> <p>20 Exhibit F Document, Bates-stamped 74</p> <p>21 IAZ_DNJ0002480</p> <p>22 Exhibit G Document, Bates-stamped 92</p> <p>23 IAZ_DNJ000658</p> <p>24 * * *</p> <p>25</p>

27 (Pages 102 - 105)



VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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